

ADEPT
Legal Commentaries

Fall 2004

Legislature's priorities in fall 2004

20 September 2004

In late September deputies come back from their two-month vacation and start their work within commissions, factions and plenary sessions. The results of their work are usually assessed at the end of the session by the representatives of the Government, Parliament and Presidency, however very little attention is paid to the tasks lying ahead of the legislature at the beginning of the session. And this largely because the plans are not always fully implemented or not as promised to the electorate, therefore to avoid criticism deputies talk about general matters and issues that are always on Parliament agenda, like: economic growth, poverty reduction, social problems, fighting corruption, European integration, Council of Europe standards, etc.

However, experts have their own takes on the issues Parliament would address in the fall session, the last but one or may be even the last session of the incumbent legislature. We should consider in greater detail some of those issues.

Law on 2005 State Budget

Not only is the state budget the main legal act of the year it also serves as a benchmark of Government's short-term and long-term goals. However in a pre-election year, it so happens that the Law on the State Budget is heavily influenced by political factors. This happened in all the pre-election years, except for 2000 when legislators did not expect early elections. As a result 2001 the state budget was quite balanced that led to a certain economic growth.

In contrast to the previous years when such issues as taxes were approved last minute (sometimes even after the beginning of the budget year), this year deputies passed legal amendments for the budget back in July, half a year in advance. On the one hand the move is of great help to the Ministry of Finance and Government that already have the legal framework for drafting the budget and a means for keeping it within the parameters and defy the claims from different branches, raions, localities or enterprises, etc.

On the other hand, the parameters may be outdated when budget for this year is enforced and then it would be necessary to adjust certain budget lines, which would obviously affect the entire budget structure.

Noteworthy, at the end of summer before being debated by Government, draft budget for 2005 was posted on the official website of the Ministry of Finance. It had the following parameters:

I. Budget revenues are estimated at 7,473 million Lei, 836.8 million Lei or 12.6% over indicators forecasted for 2004. Taxes would account for 82.1% of the total revenues. Amounts exceeding 20% of the average expenses of the Chisinau and Balti municipalities shall be levied to the state budget, worth 133 million Lei.

II. Budget expenses for 2005 are estimated at 7724 million Lei, 704.5 million Lei or 10% over the indicators approved in 2004. Funds have been earmarked for projects by taking into account money available and priorities outlined in the Poverty Reduction Strategy:

- increasing allocations to the obligatory medical insurance funds by 218.2 million Lei or by 33.5%;
- increasing allocations to social security budget by 66.8 million Lei for social security measures provided by the law;
- increasing allocations for the functioning of institutions in the subordination of the Ministry of Labour and Social Security by 14 million Lei;
- increasing allocations to educational institutions funded from the state budget by 42.8 million Lei, out of which 16.4 million Lei to raise the scholarships for students and pupils, raising the scholarships to students in agricultural institutions by 40% and raising the scholarships to residents in medical institutions by 100%;
- indemnifying deposits in Savings Bank worth 57 million USD, 9 million more than in 2004;
- increasing allocations for science and innovation by 12.3 million Lei;
- in view of improving fiscal administration State Fiscal Department shall be granted 15 million Lei to establish, implement and administer an automated system for keeping the record of oil products "Petrol";
- a reserve worth 336 million Lei for gradual implementation commencing with 2005 of the Law on calculating salaries funded from state budget and indemnities to high rank officials, which is currently examined by the Parliament;
- funding capital investments (excluding investments from special funds) for 2005, a 50.8 million Lei, i.e. 45.5%, increase over 2004.

Revenues from the privatization of energy sector units shall be directed to reimbursing credits contracted by the Government in 2004 from the National Bank of Moldova so as to service foreign debt. For 2005 no loans from National Bank are scheduled.

Noteworthy, budget does not provide for the full reimbursement of foreign credits in line with the Strategy of administering public debt providing capitalization of the debt to bilateral and commercial creditors and their further restructuring via Paris Club. Still, in order to restore credibility, servicing of foreign debt was resumed as of July 1, 2004.

Therefore, there are tendencies towards increasing spending on social sphere, increasing salaries, pensions and scholarships. This mechanism has proved to be a simple but efficient tool to boost political rating. On the other hand, experts say directing funds to social sphere, that is consumption, coupled with the lack of investments, would considerably slow down economic growth. One day, if the financial flows from Moldovan citizens working abroad end, it would even push the country to the brink of financial crisis.

Exempting from debts and penalties

In the last couple of months of their mandate, deputies would most certainly want to freeze or cancel the debts and penalties incurred by various institutions. This has happened in the past especially during the Democratic Agrarian Party ruling, when they cancelled the debts of certain agricultural enterprises headed by the party moguls, or even deputies themselves.

Incumbent Parliament, though, actively cancels the debts and penalties incurred by "state" enterprises, supposedly to revive those businesses. Very often, though, it is forgotten that those enterprises are poorly managed or that their leadership is inefficient.

The reason is very simple, state moguls are the ones to hold state enterprises (and also public ones) under control, whereas freezing enterprise's debts enables them to bring new dividends not only to the state coffers. Any party, even the ruling one, needs financial resources especially on the eve of elections.

Electoral law

As usual, on the eve of elections the electoral law is "perfected" on the grounds it is not democratic and good enough. The modifications promoted at this stage refer to 2-3 aspects:

- changing threshold of representation;
- "improving" election coverage in media;
- "ensuring transparency" of electoral funds.

It is hard to predict what amendments Parliament would like to promote. Clearly, only the ones favourable to the ruling party would get adopted. However, ruling party is quite happy with the existing law as it could bring them some extra mandates. Furthermore, international community is closing watching upcoming parliamentary elections. Noteworthy, in his message to President Voronin on Independence Day, American President stressed the importance of conforming to democratic standards as regards free and fair elections. Resuming foreign funding greatly depends on the way Moldovan government would comply with those requirements.

Council of Europe recommendations

It is officially stated that Moldova has fully complied with all the Council of Europe recommendations. Nevertheless, the latter continues to monitor Moldova and came up with a string of new recommendations and tasks the incumbent ruling would find it difficult to comply with.

Most likely Government would soon develop and submit to Parliament a set of legal acts as regards complying to European standards. This would most certainly include: fighting human trafficking, domestic violence, protecting morality, gender equality, conflict of interest, etc. All of them are new and their adoption would take time, albeit they are important pieces of legislation.

It may well happen that the Parliament would go back to the Law on Teleradio-Moldova public company, laws on wages for teachers and doctors, laws on obligatory medical insurance.

In conclusion, Parliament activity in the fall session would very much resemble a political show, or rather electoral race to promote groups or private interests.

Autumn - winter legislative session

6 October 2004

On September 23, the fall-winter session of the Parliament started. In her inauguration speech Speaker Eugenia Ostapciuc made several key points, namely "continuing economic and social reforms", "pursuing European integration, not to the detriment of cooperation with CIS", etc. Speaker also called deputies to work constructively, to honour their obligations in front of their people, not to "get involved in the electoral campaign yet", and not seek to gain political dividends in the last days of their mandate.

However, the first session of the legislature dispelled any hopes that the conflicts within the Parliament would be easily settled. It took two hours to decide on the Parliament agenda for the first two weeks of its activity. Opposition started the debates by suggesting special parliamentary committees to be formed to examine the conflict around Teleradio-Moldova and Moldovan Latin script schools in Transdnistria.

Still, practically all the deputies agreed to address the issue of schools in Transdnistrian region by issuing a joint declaration. It reads that Parliament of the Republic of Moldova is deeply concerned about Tiraspol's actions thwarting educational process in the schools studying according to Republic of Moldova curricula. Parliament called Council of Europe, Parliaments of the EU and CIS countries and international organisations to take a stance in view of settling the problem. Moreover, Parliament addressed Parliaments of guarantor countries - Russian Federation and Ukraine - to actively take part in the settlement of that problem.

Besides political issues, deputies also examined a number of laws some of which shall be considered in greater detail.

I. Law on the Modification of the Fiscal Code

ADEPT Comment: The law provides that assets included in the privatisation program, where the state holds more than one quarter of the registered capital shall be sold by the Privatization Department, as is the procedure for the privatization of public patrimony. Currently, the law provides that Privatization Department only deals with the sale of assets arrested from the enterprises included in the privatization program.

II. Law on the Modification of the Code of Civil Procedure

ADEPT Comment: The law was amended so that during the hearing of a cause the presiding chair would be allowed to limit the time allotted to the parties, if the latter digress from the subject and their arguments are not relevant to the recourse.

III. Law on Interpreting the Code of Penal Procedure

ADEPT Comment: It was important to pass the law as a number of cases were registered when the Code was not duly enforced. The law includes several provisions explaining the provisions of the Code.

IV. Law on Ratification of the Free Trade Agreement between Republic of Moldova and Bulgaria

ADEPT Comment: The document ratified on the eve of official visit of Bulgarian President to Moldova, stems from WTO requirements. The goal of the Agreement is to: promote bilateral trade and boost economic relations; ensure level playing field for the trade between the two countries; abolish tariff and other barriers; set the framework for bilateral cooperation in various fields. With this, Moldova has concluded ratifying Free Trade Agreements with the countries members of the Stability Pact for South-Eastern Europe.

The Agreement would also serve national interests: creating business opportunities for entrepreneurs in both countries; abolishing all taxes on import, export; ensure stable and predictable legal framework for bilateral trade; applying preferential origin country rule; guaranteeing free transit; protecting copyright as provided in the agreement; regulating and introducing anti-dumping, compensation and safeguarding measures in line with WTO requirements; applying WTO litigation procedures, etc.

A joint commission shall be established to enforce and oversee the enforcement of Free Trade Agreements as part of the Stability Pact for South-Eastern Europe.

V. Draft law on amending the law on walnut

ADEPT Comment: The draft law passed by the Parliament in the first reading includes new provisions on:

1. Managing walnut plantations in public property by entrepreneurs, subordinated to central administration in the field and local government;
2. Ways of completing walnut development fund - 1% of the exported walnut, related products or wood, as indicated in the customs declaration and confirmed by the invoice.
3. Spending the fund as follows:
 - Preserving and developing walnut genetic fund - 10%;
 - Growing seedling in greenhouses - 50%;
 - Walnut plantations upkeep - 35%;
 - Promoting walnut culture (legal acts, educational materials, disseminating best practices and know how) - 5%.
4. Cutting walnut plantations.